STORM WATER ORDINANCE

CITY OF GALLATIN
TENNESSEE

CREATED BY:
ENGINEERING DIVISION
CITY OF GALLATIN

LOCATED:
GALLATIN MUNICIPAL CODE
CHAPTER 18

ADOPTED:
December 21, 2004
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Chapter 18

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Article I. In General

Section 01.01 Purpose

The City of Gallatin (City) shall administer the provisions of this Ordinance. It is the purpose of this Ordinance to:

1. Protect, maintain, and enhance the environment of the City and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
2. Enable the City to comply with the National Pollution Discharge Elimination System permits (NPDES) and applicable regulations, 40 CFR 122.26 for storm water discharges.
3. Allow the City to exercise the powers granted in Tennessee Code Annotated 68-221-1105, which provides that, among other powers municipalities have with respect to storm water facilities, is the power by ordinance or resolution to:
    a. Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the municipality, whether or not owned and operated by the municipality;
    b. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
    c. Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
    d. Review and approve plans and plats for storm water management in proposed developments;
    e. Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
    f. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
    g. Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and,
    h. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

Section 01.02 Authority

The City Engineer shall administer the provisions of this Ordinance. This shall include, but not be limited to, grading and erosion control plan review, incentives negotiation, storm water facilities maintenance, administration and enforcement.

Section 01.03 Jurisdiction

This Ordinance shall govern all properties within the corporate limits and Planning Region for the City of Gallatin, Tennessee.

Section 01.04 Waivers

Every applicant shall provide for storm water management as required by this Ordinance, unless a written request is approved to waive this requirement. Requests to waive the requirements of this Ordinance shall be submitted to the City Engineer for approval. Waivers are issued at the sole discretion of the City Engineer and must not result in the following conditions:

1. Deterioration of existing culverts, bridges, dams, and other structures;
2. Degradation of biological functions or habitat;
3. Accelerated stream bank or streambed erosion or siltation;
4. Increased threat of flood damage to public health, life or property.

Section 01.05 Right-of-Entry

Designated City staff shall have right-of-entry, at reasonable times, on or upon the property of any person subject to this Ordinance and access to any permit/document issued hereunder. City staff shall be provided ready access to all parts of the premises for purposes of inspection, monitoring, sampling, inventory, records examination and copying, and performance of any other duties necessary to determine compliance with this Ordinance.

Designated City staff shall have the right to set up on the property of any person subject to this Ordinance such devices, as are necessary, to conduct sampling and/or flow measurements of the property's storm water operations or discharges.

The City has the right to determine and impose inspection schedules necessary to enforce provisions of this Ordinance.

Section 01.06 Conflicting Standards

If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

Article II. Rules for Construction of Language

For the purpose of this Ordinance, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

Section 02.01 Definitions

The following definitions shall apply in the interpretation of this Ordinance and in any regulations promulgated hereunder, unless specifically stated otherwise:

Accidental Discharge – A discharge prohibited by this Ordinance into the community waters or to waters of the state which occurs by chance and without planning or consideration prior to occurrence.

Active Construction Site – Any site that has a permit for grading or other activities (even if actual construction is not proceeding) and any site where construction is occurring regardless of permits acquired.

Appeal – A request for a review of the City Engineer's interpretation of any provision of these regulations.

Architect – A person duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of building architecture.

Base Flood – The flood having a one percent chance of being equaled or exceeded in any given year. While this statistical event may occur more frequently, it may also be known as the "one hundred-year flood".

Best Management Practice (BMP) - This may refer collectively or specifically to a structural or non-structural practice intended to address water quantity or quality. Best management practices also means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States/State. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bikeway – A facility that is explicitly provided for non-motorized bicycle travel.

Blue line stream – Streams that are represented on the United States Department of the Interior Geological Survey (USGS) 1:24,000 quadrangle maps.

BMP Treatment Train – A technique for progressively selecting various storm water management practices to address water quality, by which groups of practices may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs and space.

Bond – An instrument with a clause, with a sum of money fixed as a penalty, binding the parties to pay the same: conditioned, however, that the payment of the penalty may be avoided by the performance by some one or more parties of certain acts.

Bridge – A man made conveyance of storm water flows.

Building – A structure with a roof, intended for the shelter or enclosure of persons or property.

Channel – A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel (bankfull) flow is that quantity of water that is flowing within the limits of the defined channel.

City – The City of Gallatin, Tennessee.

City Engineer – The engineer and designated staff for the City of Gallatin, Tennessee.

Community Waters – Includes any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Gallatin.

Construction Plan – The maps or drawings accompanying a subdivision plat or site plan and showing the specific location and design of improvements to be installed in accordance with requirements of the Planning Commission.

Contractor – An individual, firm, or corporation with whom an owner or authorized agent has executed a work agreement.

Cross-drain – A culvert or culvert system that conveys storm water from one side of a roadway or obstruction to another.

Critical area – A site subject to erosion or sedimentation as a result of cutting, filling, grading, or other disturbance of the soil; a site difficult to stabilize due to exposed subsoil, steep slope, extent of exposure, and other conditions.

Critical design-storm period – The time frame in which the detention volume must be controlled with the pre-development flow volume as a maximum limit. It assumes a design period for an NRCS (formerly SCS) Type II design storm. This is a watershed specific parameter that may be specified by the City Engineer, but may be assumed as 10 to 14 hours for small and medium watersheds (order of less than 10 square miles) and 10 to 18 hours for large watersheds (order of 10 to 40 square miles).

Critical service roads – Roads designated city evacuation routes, or other access to police, fire, emergency medical services, hospitals, or shelters.

Culvert – A man made conveyance of storm water flows. This may include a pipe or other constructed conveyance.

Cut Area – Consists of the excavation and grading of an area (site, roadway, borrow pit, waterways, ditches, benches, etc.), which in turn lowers or rearranges the elevation of the existing area.

Design Specifications – Written description of a technical nature of materials, equipment, construction systems, standards, and workmanship required for a project.

Detention – The temporary delay of storm water runoff prior to discharge into receiving waters.

Developer – Any individual, firm, corporation, association, partnership, or trust involved in commencing proceedings to effect development of land for him or others. This includes any legal or engineering representative of the "developer".

Development – Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials (as defined as materials of like nature stored in whole or in part for more than six months).

Drainage Basin – A part of the surface of the earth that is occupied by and provides surface water runoff into a storm water management facility, which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

Drainage Well – A bored, drilled, driven, dug, or naturally occurring shaft or hole with a depth greater than the largest surface dimension; used to drain surface fluid, primarily storm runoff, into a subsurface or karst formation. Also know as "dry well" or "sinkhole".

Easement – Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his/her property.

Engineer – A person certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Tennessee Code annotated, to practice engineering in Tennessee.

Equal Degree of Encroachment – The delineation of floodway limits so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering hydraulic conveyance of the floodplain along both sides of a stream for a significant reach.

Erosion – The disintegration or wearing away, of soil particles, caused by the action of flowing water or impact of precipitation on the particles.

Erosion and Sediment Control Plan – A written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a land disturbing activity.

Erosion Prevention – Practices implemented to prevent, through shielding, binding or other mechanism(s), the suspension of soil particles in storm water runoff, often associated with erosion prevention and sedimentation control.

Escrow – A fiduciary agreement with the governing body in lieu of actual performance and intended to secure performance. An escrow amount may be provided as a bond subject to agreement of the governing body.

Excavation – See cut area.

Existing Grade – The slope or elevation of an existing ground surface prior to cutting or filling.

Existing Construction – Any construction related activity, for which the "start of construction", commenced before the effective date of this Ordinance.

Fill Area – Consists of placing of approved materials in an area to create an embankment for a roadway, building structure, etc. which in turn raises the elevation of the existing area.

Finished Grade – The final slope or elevation of the ground surface, after cutting or filling.

Flood or Flooding – Water from a river, stream, watercourse, lake, or other body of standing water that temporarily overflows and inundates adjacent lands, not ordinarily covered by water, and which may affect other lands and activities through increased surface water levels and/or increased groundwater level.

Flood Frequency – The statistically determined average for how often a specific flood level or discharge may be equaled or exceeded.

Flood Insurance Rate Map (FIRM) – An official map of the City of Gallatin, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the City.

Flood Insurance Study – The official report provided by the Federal Emergency Management Agency. The report contains elevations of the base flood, floodway widths, flood velocities, and flood profiles.

Floodplain – The relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water which has been or may be covered temporarily by floodwater. For purposes of this Ordinance, the floodplain is defined as the 100-year floodplain having a one percent chance of being equaled or exceeded in any given year.

Floodproofing – A combination of structural provisions, changes, or adjustments to properties and structures, subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

Floodway – That portion of the stream channel and adjacent floodplain required for the passage or conveyance of a 100-year peak flood discharge. The floodway boundaries are placed to limit encroachment in the floodplain so that a 100-year peak flood discharge can be conveyed through the floodplain without materially increasing (less than one foot) the water surface elevation at any point and without producing hazardous velocities or conditions. This is an area of significant depth and velocity and due consideration should be given to effects of fill, loss of cross sectional flow area, and resulting increased water surface elevations.

Floodway Fringe – That portion of the floodplain lying outside the floodway boundaries.

Floor - The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Functionally Dependent Facility - A facility that cannot be used for its intended purpose unless it is located or carried out in proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

General Development Plan – An approved scheme for future land development that coincides with the development plans of the City.

Grading – See land disturbing activity.

Greenway Easement – Property that has been designated for use by the City in support of greenway activities. This may include, but does not require, the use of trails or walkways to provide access to the general public. A greenway that is not defined with an easement may have restricted access (i.e. - Not accessible to the general public).

High Quality Waters – High quality waters are surface waters of the State of Tennessee that are identified by the Tennessee Department of Environment and Conservation as high quality waters. Characteristics of high quality waters are that they generally provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geological values; or waters where existing conditions are better than water quality standards.

Highest Adjacent Grade – The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure Designation – Any structure that is: listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historical district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or listed individually on a state or local inventory of historic places which have been approved by the Secretary of the Interior.

Illicit Connection – An unauthorized connection to the municipal separate storm sewer system whether or not such connection results in discharges into the system.

Illicit Discharge – Any discharge to the municipal separate storm sewer system that is not entirely composed of storm water and not specifically exempted under Section 06.04.

Impervious Surface – A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

Land Disturbing Activity - Any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of, land except those activities listed in Section 01.04 of this Ordinance.

Land Surveyor - A person certified and registered by the State Board of Land Surveying Examiners pursuant to Tennessee Code Annotated to practice land surveying in Tennessee.

Landscape Architect – A person duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of landscape architecture.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage and in an area other than the basement area, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the elevation design requirements of this Ordinance.

Maintenance – Any activity necessary to keep a storm water management facility in good working order so it will function as designed. Maintenance shall include complete reconstruction of a storm water management facility if reconstruction is required in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site that directly impairs the function of the storm water management facility.

Maintenance Agreement – A document recorded in the land records that acts as a property deed restriction, and which provides for access to the site for inspection by City staff and which provides for long-term maintenance of the storm water management facilities.

Master Plan – Any study or plan prepared by or accepted by the City of Gallatin that identifies solutions to water quantity or quality issues. Also known as Basin Study or Plan, Flood Management Study or Plan, or Water Quality Management Study or Plan.

Municipal Separate Storm Sewer System (MS4) – The portion of public infrastructure that is not considered "Waters of the State". Usually MS4 refers to dry-weather conveyances while "Waters of the State" are typically wet-weather conveyances. This determination is made by the Tennessee Department of Environment and Conservation.

National Pollutant Discharge Elimination System (NPDES) Permit – A permit issued pursuant to 33 U.S.C. 1342.

Natural Ground Surface – The ground surface in its original state before any grading, excavating, or filling. See existing grade.

New Construction – Structures for which the "start of construction" commenced on or after the effective date of these regulations. The term also includes any subsequent improvements to such structures.

NPDES MS4 Phase II Program – National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) program is the Environmental Protection Agency storm water program that focuses on smaller communities such as Gallatin, Tennessee.

National Resources Conservation Service (NRCS) – Formally known as the Soil Conservation Service (SCS).

One Hundred-Year Flood – A flood that has an average frequency of occurrence of once in one hundred (100) years, determined from an analysis of floods for a particular watershed and other watersheds in the same general region. Statistically, it has a one percent chance of occurring in any given year. See "Base Flood".

Owner – Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the real property.

Performance Bond – See Bond.

Permittee - Any person, firm, or any other legal entity to which a land disturbance, grading, building or other related permit is issued in accordance with City of Gallatin regulations or ordinances.

Planning Commission – A public planning body established pursuant to title 13, Chapters 3 or 4, Tennessee Code Annotated, to execute a partial or full planning program within authorized area limits.

Planning Region – For the purpose of this Ordinance, the area composed of territory of the Gallatin, Tennessee municipality together with the designated Gallatin Planning region granted to the city by the state of Tennessee under Section 13-3-102 of Tennessee Code Annotated.

Priority Area – An area where land use or activities generate or may generate highly contaminated storm water runoff, with concentrations of pollutants in excess of those typically found in storm water. Priority areas also refer to areas that discharge to streams that do not meet their designated use such as 303(d) streams, as defined by TDEC, or that discharge to "high quality waters".

Public Improvement – Any drainage ditch, roadway, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement, storm water facility, or other facility for which the governing body may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which the governing body's responsibility is established.

Receiving Waters – A river, stream, or other watercourse into which storm water runoff is discharged.

Redevelopment – Development improvements that have a value less than 50% of the current assessed value and/or increase the floor area by less than 25%. Demolition and reconstruction is considered development and not redevelopment. Note: this is different than significant redevelopment.

Regional Storm Water Management Facility – A device or management practice, typically but not always a detention or retention pond. The facility may serve multiple homogenous land use areas or an area of various land uses.

Resubdivision – A change in a map of any approved or recorded subdivision plat altering the number or dimensions of the lots incorporated within the confines of the original plat.

Retention – The prevention of storm water runoff from directly discharging into receiving waters. Examples include systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation processes.

Right-of-Way – A strip of land occupied or intended to be occupied by a public way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for another special use.

Soil Conservation Service (SCS) – See National Resources Conservation Service.

Sediment – Solid material, both mineral and organic, that is in suspension, being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.

Sediment Control – Practices implemented to manage through filtering, settling or other mechanism(s) the removal of suspended particles (soil, organic or mineral) from storm water, often associated with erosion prevention and sedimentation control.

Significant Redevelopment – Development improvements that have a value greater than 50% of the current assessed value, increases the floor area 25% or more, changes in the impervious surface area, redirects the flow of storm water runoff in any way, modifies the storm sewer system, or changes storm water characteristics. Demolition and reconstruction is considered development and not redevelopment. Note: this is different than redevelopment.

Significant Spill - A spill or any other discharge which could constitute a threat to human health or the environment.

Site – All contiguous land and bodies of water in one ownership graded or proposed for grading or development as a unit, although not necessarily at one time.

Slope – Degree of deviation of a surface from the horizontal, usually expressed in percent or ratio.

Soil – All unconsolidated mineral and organic material of any origin that overlies bedrock and that can be readily excavated.

Soil Engineer – A professional engineer, who is qualified, licensed and/or registered by the appropriate authority to practice applied soil mechanics and foundation engineering within the State of Tennessee.

Start of Construction – For purposes of erosion and sediment control, any alteration of the original surface area of the land from and after the date and adoption of this Ordinance.

Storm Water – Rain runoff, snowmelt runoff, surface runoff, and drainage.

Storm Water Director – The City Engineer for the City of Gallatin, Tennessee.

Storm Water Management Facilities – Drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtances by means of which storm water is collected, transported, pumped, treated or disposed of.

Storm Water Pollution Prevention Plan **(SWPPP)** – A written site specific plan to eliminate or reduce and control the pollution of storm water through designated facilities, sedimentation ponds, natural or constructed wetlands, and best management practices.

Stripping – Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

Structure – An object constructed or installed by man, including but not limited to buildings, signs, towers, smokestacks, and overhead transmission lines.

Subdivision – The division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided.

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to the before damage condition would equal or exceed 50 percent of the market value of the structure before the damage.

Substantial Improvement – Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Substantial Work – A sufficient amount of construction activity, as defined by the City Engineer, which demonstrates progress toward site completion.

Tract – A portion of land with definite and ascertainable limits or boundaries.

Water Quality – Those characteristics of storm water runoff that relate to physical, chemical, biological, or radiological integrity of water.

Water Quantity – Those characteristics of storm water runoff that relate to the rate and volume of storm water runoff.

Waters of the State – Any water body determined to be in the jurisdiction of the Tennessee Department of Environment and Conservation (TDEC). Waters of the State are separate and distinct from an MS4 and private infrastructure.

Water Body – A channel, natural depression, slough, gulch, stream, creek, pond, reservoir, or lake in which storm water runoff and floodwater flows either regularly or infrequently.

Watershed – The area upstream of a specified point including all overland flow that directly or indirectly connects down-slope to the specified point.

Waterway Buffer – An area separating a waterway from buildings and/or structures. Typically, buffers are maintained in a natural or vegetative state providing environmental and aesthetic benefits.

Wetland – Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support vegetation typical of life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas.

Zoning Ordinance – A statute, legally adopted pursuant to Title 13, Chapter 7, Tennessee Code Annotated, for the purpose of regulating, by district, land development or use for a designated area.

Section 02.01 Abbreviations

The following is a list of abbreviations used within this Ordinance. The appropriate designation shall refer to the latest edition or update published by that organization:

AASHTO:	American Association of State Highway and Transportation Officials
ASTM:	American Society for Testing and Materials
BMP:	Best Management Practice
CFR:	Code of Federal Regulation
FIRM:	Flood Insurance Rate Map
MS4:	Municipal Separate Storm Sewer System
NPDES:	National Pollutant Discharge Elimination System
NRCS:	National Resources Conservation Service
PUD:	Planned Unit Development
SCS:	Soil Conservation Service
SWPPP:	Storm Water Pollution Prevention Plan
TDEC:	Tennessee Department of Environment and Conservation
TDOT:	Tennessee Department of Transportation
USC:	United States Code
USGS:	United States Geological Survey

Article III. Land Disturbance Permit

Section 03.01 Applicability

The provisions of this section shall apply to all new developments on each lot, site or common development which has not received final plat approval, final site plan approval or a building permit prior to the effective date of this Ordinance. No person shall undertake stripping or land disturbance activities of an area greater than one (1) acre or change the elevation of a property without first obtaining a Land Disturbance Permit (LDP) from the City Engineer.

Section 03.02 Exemptions

The following land disturbance activities are exempt from the requirements of obtaining a Land Disturbance Permit:

1. Surface mining as is defined in Tennessee Code Annotated Section 59-8-202;
2. Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home additions or modifications, home maintenance work, and other related activities that result in minor soil erosion;
3. Individual service and sewer connections for single or two family residences;
4. Agricultural practices involving the establishment, cultivation or harvesting of products in the field or orchard, preparing and planting of pastureland, farm ponds, dairy operations, livestock and poultry management practices, and the construction of farm buildings.
5. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
6. Construction, installation, or maintenance of electrical, telephone and cable television lines and poles;
7. Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard surface road, street or sidewalk which is hard surfaced and such street, curb, gutter or sidewalk construction has been approved;
8. Construction, repair or rebuilding of tracks or other related facilities of a railroad company;
9. Land disturbance activities that do not disturb more than one (1) acre of land. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site; and,
10. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

These activities may be undertaken without a Land Disturbance Permit; however, the persons conducting these excluded activities shall remain responsible for conducting these activities in accordance with provisions of this Ordinance and other applicable regulations including responsibility for controlling sedimentation and runoff.

Section 03.03 Application

No land disturbing activity, whether temporary or permanent, shall be conducted within the City unless a Land Disturbance Permit has been issued by the City Engineering Division. Such permits shall be available for inspection by the City on the job site at all times during which land disturbance activities are in progress.

Each application for a LDP shall include the following:

(1) Name of applicant;

(2) Business or residence address of applicant;

(3) Name, address, and telephone number of the owner of the property of record;

(4) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(5) Name, address, and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the stormwater management plan;

(6) A statement indicating the nature, extent and purpose of the land disturbing activity, including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;

(7) Where the property includes a sinkhole, the applicant shall obtain from the State Department of Environment and Conservation appropriate permits;

(8) The applicant shall obtain from any other State or Federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City from imposing additional development requirements and conditions, commensurate with this chapter, on the development of property covered by those permits;

(9) A sediment and erosion control plan containing the following:
   a. Perimeter controls;
   b. Slope protection;
   c. Sediment traps and basins;
   d. Drainage way and stream protection;
   e. Temporary stabilization;
   f. Permanent stabilization;

(10) A grading plan containing the following:
   a. Existing and proposed site contours of an interval no greater than five (5) feet;
   b. Existing and proposed buildings on the property (including floor elevations);
   c. Existing and proposed drainage structures on, and in the immediate vicinity of, the property. Must include size, type, slope, and invert elevations of the structures;
   d. Submit drainage and runoff calculations (including a drainage basin worksheet) and temporary sediment/detention pond design as required by the city. Calculations should be for pipes and ditches as well as areas where the runoff sheet flows;
   e. Existing and proposed paving on the property (including parking and roadway improvements);

(11) An NPDES permit tracking number; and,

(12) Land Disturbance Permit Bond – Prior to the issuance of a permit for any land disturbance activity affecting more than five (5) acres, the applicant shall be required to provide a land disturbance bond to the City of Gallatin to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved grading plan. For smaller areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain development or nearby lakes, streams or large drainage ditches, the applicant may be required, at the discretion of the City Engineer, to provide a Land Disturbance Permit Bond to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved plan.

The City Engineer shall establish the amount and time period of the security, based on the estimated cost and time for completing the plan. The Land Disturbance Permit Bond shall be in the form of cash, a certified check, an Irrevocable Letter of Credit, or a Surety Bond rated A- or better. All Irrevocable Letters of Credit submitted to the City must either be payable at a local bank within a 50-mile radius of the corporate limits of the City of Gallatin or specifically state that the letter of credit can be drawn upon by certified mail.

Such Land Disturbance Permit Bond shall be satisfactory to the City Attorney as to form, sufficiency of surety, and manner of execution.

Within 30 days of the City Engineer's determination that all provisions of the approved plan have been completed or upon receipt of an acceptable site performance bond for required site and grading improvements or a subdivision performance bond for required subdivision improvements, such Land Disturbance Permit Bond shall be refunded or terminated.

Section 03.04 Permit Duration

Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one year.

Section 03.05 Inspection of Construction

The applicant must notify the City two (2) working days in advance of the commencement of construction.

Erosion control measures must be in place and inspected by the City Engineering Division prior to grading.

Routine inspections of erosion control devices shall be performed to insure effectiveness throughout the project duration.

Article IV. Storm Water Design

Section 04.01 General

- This chapter outlines the minimum standards for storm water design. The City Engineer reserves the right to require additional calculations or information.

- A Major Drainage System carries runoff from a 100-year storm event and consists of one or more minor drainage systems. Major Drainage Systems shall be designed such that no building will be flooded during a 100-year frequency storm if the minor drainage system experiences total failure.

- A Minor Drainage System is used for collecting, transporting, and disposing of snow melt, miscellaneous minor flows, and storm runoff up to the capacity of the system. The capacity should be equal to the maximum rate of runoff to be expected from the initial design storm of 10-year frequency.

- Utility conflicts - See Utility Department manuals.

- All easement requirements shall be per the Gallatin Subdivision Regulations.

- The developer shall study the effect of each project on existing downstream drainage facilities outside the area of the project. Where it is anticipated that the additional runoff incident to the development of the project will overload an existing downstream facility, the City Engineer may withhold approval of the project until provisions have been made for adequate improvement of such drainage facilities. No project shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

- Storm water systems should be designed to:

    1. Account for future development in the watershed or affected portions thereof, as permitted by the applicable Zoning Regulations;
    2. Follow existing flow paths;
    3. Convey storm water to a stream, channel, natural drainage facility, or other existing facility of sufficient capacity to receive the storm water runoff;
    4. Exit the site at an easement or right-of-way location.

- In residential subdivision developments, where the average lot size is less than 20,000 square feet, lots should generally be graded in such a manner that surface runoff does not cross more than three lots or have peak discharges greater than 4 cfs before it is collected in an open or closed storm water system.

- All construction requirements shall be per the City of Gallatin Construction Manual.

- The developer will insure that all artesian ground waters of a permanent or temporary nature will be conveyed through the storm water system. Regardless of the location of property lines, intercept will be allowed at the point of artesian surfacing. The intent of this paragraph is to prevent flooding by overland flow. The developer is obligated to perform this work upon evidence of artesian water for a period of one year following acceptance of all roads and utilities.

Section 04.02 Hydrology

- Any drainage area greater than 40 acres shall require a Drainage Basin Worksheet.

- The Rational Method is the preferred method for drainage areas less than or equal to 100 acres.

- Drainage areas greater than 100 acres shall use the SCS Unit Hydrograph Procedure or other approved calculations.

- Intensity-Duration-Frequency curves for Metro Nashville shall be used. Copies of these curves are available in the office of the City Engineer.

- Drainage Calculations shall be provided for all designs. All areas for calculation shall be determined from field run topography or current USGS quadrangle sheets.

Section 04.03 Open Channel Design

- Where open channels are utilized, they shall be designed for the 10-year design storm. If the 10-year design flow for an open channel system is greater than 100 cfs, then the channel shall be capable of passing the 100-year design flow within the drainage easement.

- Trapezoidal or parabolic ditch cross-sections are preferred. Triangular ditch cross-sections should be avoided.

- Use of riprap must be approved by the City Engineer.

- Low flow concrete sections are required where flow is greater than 100 cfs, unless waived by the City Engineer.

- Ditches running parallel and adjacent to a curbed street are not allowed.

- Manning's Equation is recommended for evaluating uniform flow conditions in open channels.

- Stabilization of Ditches - All open ditches shall be stabilized in accordance with the following requirements:

Size of Nearest Culvert (Upstream)	Seeding Required	Sod or Permanent Matting Required	Concrete Swale
Any size pipe	----------	----------	Grades less than 0.60% slope
15"	Grades 0.60-3.00%	Grades 3.00-12.00%	Grades exceeding 12.00%
18" thru 24"	Grades 06.0-1.50%	Grades 1.50-7.00%	Grades exceeding 7.00%
30" thru 36"	Grades 06.0-1.50%	Grades 1.00-4.00%	Grades exceeding 4.00%
42" thru 72"	----------	Grades 2.50% or less	Grades exceeding 2.50%

Section 04.04 Gutter and Inlet Design

- Inlets shall be located or spaced in such a manner that the design curb flow does not exceed 8' of spread.

- Underground storm water facilities shall have accesses a minimum of 200' apart for pipe less than or equal to 24" diameter and 300' apart for pipe between 30" and 42" in diameter.

- No flow shall be allowed to cross intersecting streets unless approved by the City Engineer.

- Combination inlets shall always be used under sump conditions and at the end of cul-de-sacs.

Section 04.05 Culvert Design

- Culverts shall be 15" diameter minimum and have a 0.5% slope minimum.

- RCP is required under all roadways.

- Arterial or Collector roadway cross-drains shall be designed to pass the 100-year design storm.

- Local roadway culverts shall be designed to pass the 10-year design storm. If the 10-year design flow exceeds 100 cfs then the local roadway cross-drains shall be designed to pass the 100-year design storm.

- A minimum velocity of 2.5 fps, when a culvert is flowing full, is required to ensure a self-cleaning condition during partial depth flow.

- A minimum of 1 (one) foot of cover shall be provided over all culverts.

- The maximum velocity shall be consistent with channel stability requirements at the culvert outlet.

Section 04.06 Bridges

- The peak discharge design return period for spans greater than 20' shall be designed for 100-year storm event.

- To allow debris to pass without causing damage, the recommended minimum clearance between the design flood stage and the low member of the bridge shall be 1 (one) foot, unless boat traffic is anticipated.

Section 04.07 Detention/Retention Design

- Control structure release rates should approximate pre-development peak rates for the 2-year thru the 10-year storm events with an emergency overflow capable of handling the 100-year discharge, except where waived by the City Engineer. Design calculations are required to demonstrate that the 2- and 10-year design storms are controlled. If so, intermediate storm return periods can be assumed to be adequately controlled.

- Detention volume shall be adequate to attenuate the post-development peak discharge rates to the design release rates.

- If the 10-year post-development runoff increase is less than 3 cfs from the 10-year pre-development runoff, then a detention pond waiver may be given by the City Engineer.

- Detention volumes shall be drained within 72 hours.

- Vegetated embankments shall be less than 10' in height with side slopes no greater than 3:1.

- The interior bottom slope shall not be less than 1%, unless a concrete swale is approved.

- The top of the berm shall be no less than 3' wide.

- Retention pond design and calculations must be approved by the City Engineer.

- Detention/retention systems shall be constructed and operational during the initial phase of construction. This requirement shall be clearly stated on the plans.

- Impoundment depths greater than 20' are subject to the State Dam Safety Act. Requirements of the State Dam Safety Program shall be followed.

- The design engineer shall design detention/retention facilities that require minimal maintenance. The maintenance responsibility shall be clearly stated on the plans and be in accordance with Section 05.02 of this Ordinance.

- If siltation during construction causes a loss of detention volume, design dimensions shall be restored. This requirement shall be clearly stated on the plans.

Section 04.08 Erosion and Sediment Control

- The erosion and sediment control plan must include appropriate construction specifications for all control measures. These specifications must be developed by the design engineer as required for site-specific conditions. Typical specifications may be obtained from the most recent edition of the Tennessee Erosion and Sediment Control Handbook (Tennessee Department of Environment and Conservation) or from the City of Gallatin Construction Details Handbook.

- Properties adjacent to a land disturbance site shall be protected from sediment deposition. Vegetated buffer strips shall be at least 20 feet wide.

- Sediment traps may be used to detain sediment-laden storm water runoff from drainage areas. Sediment traps shall have an initial storage volume below the crest of the overflow structure of 67 cubic yards per acre of drainage area.

- Temporary check dams shall be constructed across open channels.

- The designer must consider and provide a design to dissipate energy and eliminate scour on the downstream side of all outlet structures. See Section 04.09 of this Ordinance for approved outlet protection alternatives.

- Ninety percent (90%) of all pervious areas on a site shall have a dense ground cover prior to release of any bond. In drainage ways, 100 percent of dense ground cover must be established.

Section 04.09 Outlet Protection

- Outfalls must be designed to discharge the runoff without deterioration of the downstream drainage facilities.

- Fencing shall be required for detention areas where:

    1. Rapid stage changes occur; or,
    2. Water depths exceed 2.5' for more than 24 hours; or,
    3. Interior flow velocity is more than 5 fps; or,
    4. Interior side slopes are greater than 1.5:1; or,
    5. In some cases, it may be advisable to fence the watercourse or ditch rather than the detention area.

- Grates or covers are required on top of all detention pond outlet structures

- Energy dissipater blocks and erosion control fabric are preferred for outlet protection. Use of riprap requires prior approval from the City Engineer.

Section 04.10 Sinkhole Policy

- The developer shall provide the Engineering Division with a geologic report of all sinkholes receiving storm water runoff from the site. This report shall be prepared by a Registered Engineer experienced in geology and ground water hydrology and shall include hydraulic calculations needed to show that offsite flooding will not be increased.

- Any sinkhole or natural channel utilized as a means of moving ground water into a subterranean system shall be protected by structures as approved by the Engineering Division.

- The developer shall provide an alternate drainage route to provide runoff relief in case of sinkhole failure.

- Sinkholes used as a detention facility shall meet the requirements of Section 04.07, Detention/Retention Design.

Article V. Post Construction

Section 05.01 General

The following requirements apply to existing and proposed sites:

- Sedimentation and erosion shall be maintained onsite. The City Engineer shall have the authority to require the owner(s) to repair onsite erosion and manage siltation before it leaves the property.

- Impervious areas greater than 10,000 square feet are required to drain through a vegetated buffer of a minimum 20' prior to leaving the property. In locations where site outfalls do not exit through vegetated buffers of at least 20', structural BMP's shall be required by the City Engineer.

- In areas where a floodplain and floodway have been identified on the most current FEMA maps, the buffer shall be inclusive of all areas within the floodway. Additional buffer width may be required by the City Engineer.

- In areas where a floodplain and floodway have not been identified on the most-current FEMA maps, and if the waterway on the United States Geological Quadrangle map is a "blue line" or intermittent "blue line" stream, the buffer shall be at least 25 feet perpendicular from each side of the stream bank.

Section 05.02 Post-Construction Maintenance

Section 05.02.01 Maintenance for Proposed Sites

The maintenance responsibilities for permanent storm water runoff control facilities shall be determined based upon the type of ownership of the property that is controlled by the facilities.

1. Single entity ownership - Where the permanent storm water runoff control facilities are designed to manage runoff from property in a single-entity ownership, as defined below, the maintenance responsibility for the storm water control facilities shall be with the single-entity owner.

    a. A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate, or any other legal entity allowed to own real estate exclusive of an individual lot owner.

    b. The stated responsibilities of the entity in terms of owning and maintaining the facilities shall be submitted with the plans for determination of their adequacy. Approval of the plans shall be conditioned upon the approval of these terms. These terms shall be in writing, shall be in recordable form, and shall, in addition to

any other terms deemed necessary by the City, contain a provision permitting inspection at any reasonable time by the City Engineer or his designee of all such facilities deemed critical to the public welfare. The entity shall also execute a Storm Water Management Facilities Agreement with the City.

A draft copy of a Storm Water Management Facilities Agreement is available in the office of the City Engineer.

c. Upon approval and prior to execution of the Storm Water Management Facilities Agreement, the facility owner(s) shall demonstrate the ability to garner and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by the City. The City will only approve funding mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.

d. Unless made specifically clear in the preliminary stages of site design and construction plan review procedure, it will be assumed that all storm water detention, retention, treatment, or storage facilities and/or devices shall be owned, operated, and maintained by a single entity as defined above.

2. Municipal ownership - Where the City has accepted an offer of dedication of the permanent storm water management facilities, the City shall be responsible for maintenance.

Section 05.02.02 Maintenance for Existing Sites

The maintenance responsibility for permanent storm water runoff control shall be the responsibility of the owner(s) of the property or any previously established ownership group(s).

Article VI. Illicit Discharges

Section 06.01 Prohibition of Illicit Discharges

Pursuant to the NPDES Municipal Separate Storm Sewer System (MS4) program administered by the Tennessee Department of Environment and Conservation, non-storm water discharges to the City's MS4 are defined as illegal. Non-storm water discharge means any discharge to the MS4 except as permitted by Section 06.04 of this Ordinance.

Section 06.02 Prohibition of Illegal Connections

The construction, use, maintenance or continued existence of illegal connections to the separate municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Section 06.03 Accidental Spills

In the event of any discharge of a hazardous substance in amounts which could cause a threat to public drinking supplies, a "significant spill", or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the City Engineer or his designee and the field office of the Tennessee Department of Environment and Conservation as soon as practicable, but in no event later than the close of business on the day following the accidental discharge or the discharger becomes aware of the circumstances. If an emergency response by governmental agencies is needed, the owner or operator should also call 911 immediately to report the discharge. A written report must be provided within five days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the City Engineer for good cause determined on a case-by-case basis, containing the following particulars:

1. Description of the discharge,
2. Exact times and dates of discharge, and
3. Steps being taken to eliminate and prevent recurrence of the discharge.

The discharger shall take all reasonable steps to minimize any adverse impact to the Community Waters or Waters of the State, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. It shall not be a defense for the discharger in an enforcement action that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain water quality and minimize any adverse impacts that the discharge may cause.

Section 06.04 Allowable Discharges

Certain non-storm water discharges are allowable, as defined below, into the City's MS4 unless the City Engineer has identified them as a source of pollutants to the "Waters of the State of Tennessee". The following non-storm water discharges into the MS4 are allowed:

1. Water line flushing or other potable water sources;
2. Landscape irrigation or lawn watering with potable water;
3. Diverted stream flows;
4. Rising ground water;
5. Uncontaminated groundwater infiltration to storm drains;
6. Pumped uncontaminated groundwater;
7. Foundation or footing drains;
8. Crawl space pumps;
9. Air conditioning condensation;
10. Uncontaminated springs;
11. Non-commercial washing of vehicles;
12. Natural riparian habitat or wetland flows;
13. Swimming pools (if dechlorinated - typically less than one PPM chlorine);
14. Street washing waters resulting from normal street cleaning operations;
15. Controlled flushing of storm water conveyances (controlled by appropriate best management practices);
16. Discharges within the constraints of a NPDES permit from the Tennessee Department of Environment and Conservation;
17. Fire fighting activities;
18. Discharges approved at the discretion of the City Engineer; and,
19. Any other uncontaminated water source.

Article VII. Enforcement

The City may institute appropriate actions or proceedings by law or equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of non-compliance is considered a separate offense; and nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties shall be available to the City in response to violations of this Ordinance. If the person, property or facility has or is required to have an NPDES permit from the Tennessee Department of Environment and Conservation, the City shall alert the appropriate state authorities of the violation.

Section 07.01 Notice of Violation

Whenever the City Engineer finds that any permittee or any other person discharging storm water has violated or is violating this Ordinance or a permit or order issued hereunder, the City Engineer may serve upon such person a Notice of the Violation. The City Engineering Division's Notice of Violation requires the owner/builder/bond insurer to comply with all issues that are stated on the Notice of Violation. If the listed violations are not corrected at the time of the reinspection, an additional inspection will be scheduled within five business days, at which time a Stop Work Order may be issued. If a Stop Work Order has been issued, the owner/builder has five days to comply with the Notice of Violation issues before the City will take all action necessary to insure compliance, including, but not limited to, forfeiting any relevant bond and/or enforcing penalties.

A copy of the Notice of Violation form is available in the office of the City Engineer.

Section 07.02 Stop Work Order

When the City Engineer finds that any person has violated or continues to violate this Ordinance or any permit or order issued hereunder, the City Engineer may issue a Stop Work Order to cease and desist all such work and direct those persons in non-compliance to:

1. Comply forthwith; or
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

A copy of the Stop Work Order form is available in the office of the City Engineer.

Section 07.03 Revocation of Permit

The City Engineer may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

Article VIII. Penalties

The City may institute appropriate actions or proceedings at law or equity for the enforcement of this Ordinance. Any of the following penalties shall be available to the City in response to violations of this Ordinance.

Section 08.01 Violations

Any person who shall commit any act declared unlawful under this Ordinance, who violates any provision of this Ordinance, who violates the provisions of any permit issued pursuant to this Ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City Engineer shall be guilty of a civil offense.

Section 08.02 Measuring Civil Penalties

In assessing a civil penalty, the City Engineer may consider:

1. The harm done to the public health or the environment;
2. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
3. The economic benefit gained by the violator;
4. The amount of effort put forth by the violator to remedy this violation;
5. Any unusual or extraordinary enforcement costs incurred by the municipality;
6. The amount of penalty established by ordinance or resolution for specific categories of violations; and,
7. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

Section 08.03 Penalties

Under the authority provided in Tennessee Code Annotated 68-221-1106, the City declares that any person violating the provisions of this Ordinance may be assessed a civil penalty by the City of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

The maximum civil penalties will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

Section 08.03.01 Development without permit

Maximum $5,000 - To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

Section 08.03.02 Development inconsistent with permit

Maximum $5,000 - To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

Section 08.03.03 Violation by act or omission

Maximum $5,000 - To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the City or its agent departments upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.

Section 08.03.04 Illicit Discharge

Maximum $5,000 - Any person, company or facility who is found to have improperly disposed of any substance that is not defined in Section 06.01.05 or causes the City to be in noncompliance with any applicable environmental permit.

Section 08.03.05 Household Products

Maximum $500 - Any person, company or facility who is found to have improperly disposed of any substance not included in Section 06.01.05 that was purchases over the counter for household use, in quantities considered normal for household purposes, which, upon discharge to the municipal separate storm sewer system or drainage network, would have an adverse impact on water quality or cause the City to be in noncompliance with any applicable environmental permit.

Section 08.04 Recovery of Costs and Damages

In addition to the civil penalties in Section 08.03, the City may recover:

1. All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this Ordinance, or any other actual damages caused by the violation;
2. Costs of the City's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this Ordinance;
3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation; and,
4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

In the event there are penalties assessed by the State against the City caused by any person, company or facility, said person, company or facility shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to, penalties for improper disposal or illegal dumping, or illegal connection into the municipal separate storm sewer system.

Section 08.05 Emergencies

In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this Ordinance.

Article IX. Appeals

The issuance of a citation or Notice of Violation of this Ordinance shall be conclusive and final unless the accused violator submits a written notice of appeal to the City Engineer within five (5) days of the violation notice being served. If the City Engineer does not issue a decision within five (5) days of the written notice of appeal then the violation is considered upheld. If the City Engineer does not reverse the decision, the aggrieved party may appeal to the City Council at its next scheduled meeting.

Any alleged violator may appeal a decision of the City's governing body pursuant to the provisions of Tennessee Code Annotated, Title 27, Chapter 8.

The City Council shall have the authority to grant appeals to violations of this Ordinance provided they are consistent with the purposes identified Section 01.01 of this Ordinance. The City Council shall not permit actions by the applicant that are based on lack of proper planning or implementation of site development as defined in this Ordinance, other regulations, or other ordinances.

If the City prevails, the decisions of the City Council can be reviewed through the appropriate court actions. In any administrative or civil proceeding initiated under this Ordinance, the City shall be entitled to seek reimbursement for all costs incurred in connection with said proceeding. Such reimbursable expenses may include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, and costs of suit.

Article X. Severability

Should any article, section, subsection, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.